

Order

Michigan Supreme Court
Lansing, Michigan

September 23, 2015

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2014-15

Stephen J. Markman

Mary Beth Kelly

Brian K. Zahra

Amendments of Rule 6.106
of the Michigan Court Rules

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of MCR 6.106 are adopted, effective January 1, 2016.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 6.106 Pretrial Release

(A) [Unchanged.]

(B) Pretrial Release/Custody Order Under Const 1963, Art 1, § 15.

(1)-(4)[Unchanged.]

(5) The court may, in its custody order, place conditions on the defendant, including but not limited to restricting or prohibiting defendant's contact with any other named person or persons, if the court determines the conditions are reasonably necessary to maintain the integrity of the judicial proceedings or are reasonably necessary for the protection of one or more named persons. If an order under this paragraph is in conflict with another court order, the most restrictive provisions of the orders shall take precedence until the conflict is resolved.

(6) Nothing in this rule limits the ability of a jail to impose restrictions on detainee contact as an appropriate means of furthering penological goals.

(C) [Unchanged.]

(D) Conditional Release. If the court determines that the release described in subrule (C) will not reasonably ensure the appearance of the defendant as required, or will

not reasonably ensure the safety of the public, the court may order the pretrial release of the defendant on the condition or combination of conditions that the court determines are appropriate including

(1) [Unchanged.]

(2) subject to any condition or conditions the court determines are reasonably necessary to ensure the appearance of the defendant as required and the safety of the public, which may include requiring the defendant to

(a)-(l) [Unchanged.]

(m) comply with any condition limiting or prohibiting contact with any other named person or persons. If an order under this paragraph limiting or prohibiting contact with any other named person or persons is in conflict with another court order, the most restrictive provision of ~~each order~~the orders shall take precedence ~~over the other court order~~ until the conflict is resolved. The court may make this condition effective immediately on entry of a pretrial release order and while defendant remains in custody if the court determines it is reasonably necessary to maintain the integrity of the judicial proceedings or it is reasonably necessary for the protection of one or more named persons.

(n)-(o) [Unchanged.]

(E)-(I) [Unchanged.]

Staff Comment: The amendments of MCR 6.106(B) and (D) clarify that courts are permitted to exercise their inherent power to order conditions, including but not limited to those conditions that restrict or prohibit a pretrial defendant's contact with any named person to be effective immediately, even while defendant remains in custody. These conditions are allowed in a custody order when the protective restriction or prohibition is reasonably necessary to maintain the integrity of the judicial proceedings or is reasonably necessary for the protection of one or more named persons.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2015

Clerk